

HB1636



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1636

by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.5

from Ch. 67 1/2, par. 609.1

Amends the Illinois Enterprise Zone Act. Provides that businesses that intend to establish a new qualified hydroponics facility or expand production at an existing qualified hydroponics facility to engage in the practice of hydroponics are considered high impact businesses. Define terms. Effective immediately.

LRB101 07313 JWD 52353 b

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Enterprise Zone Act is amended by
5 changing Section 5.5 as follows:

6 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

7 Sec. 5.5. High Impact Business.

8 (a) In order to respond to unique opportunities to assist
9 in the encouragement, development, growth and expansion of the
10 private sector through large scale investment and development
11 projects, the Department is authorized to receive and approve
12 applications for the designation of "High Impact Businesses" in
13 Illinois subject to the following conditions:

14 (1) such applications may be submitted at any time
15 during the year;

16 (2) such business is not located, at the time of
17 designation, in an enterprise zone designated pursuant to
18 this Act;

19 (3) the business intends to do one or more of the
20 following:

21 (A) the business intends to make a minimum
22 investment of \$12,000,000 which will be placed in
23 service in qualified property and intends to create 500

1 full-time equivalent jobs at a designated location in
2 Illinois or intends to make a minimum investment of
3 \$30,000,000 which will be placed in service in
4 qualified property and intends to retain 1,500
5 full-time retained jobs at a designated location in
6 Illinois. The business must certify in writing that the
7 investments would not be placed in service in qualified
8 property and the job creation or job retention would
9 not occur without the tax credits and exemptions set
10 forth in subsection (b) of this Section. The terms
11 "placed in service" and "qualified property" have the
12 same meanings as described in subsection (h) of Section
13 201 of the Illinois Income Tax Act; or

14 (B) the business intends to establish a new
15 electric generating facility at a designated location
16 in Illinois. "New electric generating facility", for
17 purposes of this Section, means a newly-constructed
18 electric generation plant or a newly-constructed
19 generation capacity expansion at an existing electric
20 generation plant, including the transmission lines and
21 associated equipment that transfers electricity from
22 points of supply to points of delivery, and for which
23 such new foundation construction commenced not sooner
24 than July 1, 2001. Such facility shall be designed to
25 provide baseload electric generation and shall operate
26 on a continuous basis throughout the year; and (i)

1 shall have an aggregate rated generating capacity of at
2 least 1,000 megawatts for all new units at one site if
3 it uses natural gas as its primary fuel and foundation
4 construction of the facility is commenced on or before
5 December 31, 2004, or shall have an aggregate rated
6 generating capacity of at least 400 megawatts for all
7 new units at one site if it uses coal or gases derived
8 from coal as its primary fuel and shall support the
9 creation of at least 150 new Illinois coal mining jobs,
10 or (ii) shall be funded through a federal Department of
11 Energy grant before December 31, 2010 and shall support
12 the creation of Illinois coal-mining jobs, or (iii)
13 shall use coal gasification or integrated
14 gasification-combined cycle units that generate
15 electricity or chemicals, or both, and shall support
16 the creation of Illinois coal-mining jobs. The
17 business must certify in writing that the investments
18 necessary to establish a new electric generating
19 facility would not be placed in service and the job
20 creation in the case of a coal-fueled plant would not
21 occur without the tax credits and exemptions set forth
22 in subsection (b-5) of this Section. The term "placed
23 in service" has the same meaning as described in
24 subsection (h) of Section 201 of the Illinois Income
25 Tax Act; or

26 (B-5) the business intends to establish a new

1 gasification facility at a designated location in
2 Illinois. As used in this Section, "new gasification
3 facility" means a newly constructed coal gasification
4 facility that generates chemical feedstocks or
5 transportation fuels derived from coal (which may
6 include, but are not limited to, methane, methanol, and
7 nitrogen fertilizer), that supports the creation or
8 retention of Illinois coal-mining jobs, and that
9 qualifies for financial assistance from the Department
10 before December 31, 2010. A new gasification facility
11 does not include a pilot project located within
12 Jefferson County or within a county adjacent to
13 Jefferson County for synthetic natural gas from coal;
14 or

15 (C) the business intends to establish production
16 operations at a new coal mine, re-establish production
17 operations at a closed coal mine, or expand production
18 at an existing coal mine at a designated location in
19 Illinois not sooner than July 1, 2001; provided that
20 the production operations result in the creation of 150
21 new Illinois coal mining jobs as described in
22 subdivision (a)(3)(B) of this Section, and further
23 provided that the coal extracted from such mine is
24 utilized as the predominant source for a new electric
25 generating facility. The business must certify in
26 writing that the investments necessary to establish a

1 new, expanded, or reopened coal mine would not be
2 placed in service and the job creation would not occur
3 without the tax credits and exemptions set forth in
4 subsection (b-5) of this Section. The term "placed in
5 service" has the same meaning as described in
6 subsection (h) of Section 201 of the Illinois Income
7 Tax Act; or

8 (D) the business intends to construct new
9 transmission facilities or upgrade existing
10 transmission facilities at designated locations in
11 Illinois, for which construction commenced not sooner
12 than July 1, 2001. For the purposes of this Section,
13 "transmission facilities" means transmission lines
14 with a voltage rating of 115 kilovolts or above,
15 including associated equipment, that transfer
16 electricity from points of supply to points of delivery
17 and that transmit a majority of the electricity
18 generated by a new electric generating facility
19 designated as a High Impact Business in accordance with
20 this Section. The business must certify in writing that
21 the investments necessary to construct new
22 transmission facilities or upgrade existing
23 transmission facilities would not be placed in service
24 without the tax credits and exemptions set forth in
25 subsection (b-5) of this Section. The term "placed in
26 service" has the same meaning as described in

1 subsection (h) of Section 201 of the Illinois Income
2 Tax Act; or

3 (E) the business intends to establish a new wind
4 power facility at a designated location in Illinois.
5 For purposes of this Section, "new wind power facility"
6 means a newly constructed electric generation
7 facility, or a newly constructed expansion of an
8 existing electric generation facility, placed in
9 service on or after July 1, 2009, that generates
10 electricity using wind energy devices, and such
11 facility shall be deemed to include all associated
12 transmission lines, substations, and other equipment
13 related to the generation of electricity from wind
14 energy devices. For purposes of this Section, "wind
15 energy device" means any device, with a nameplate
16 capacity of at least 0.5 megawatts, that is used in the
17 process of converting kinetic energy from the wind to
18 generate electricity; or

19 (F) the business commits to (i) make a minimum
20 investment of \$500,000,000, which will be placed in
21 service in a qualified property, (ii) create 125
22 full-time equivalent jobs at a designated location in
23 Illinois, (iii) establish a fertilizer plant at a
24 designated location in Illinois that complies with the
25 set-back standards as described in Table 1: Initial
26 Isolation and Protective Action Distances in the 2012

1 Emergency Response Guidebook published by the United
2 States Department of Transportation, (iv) pay a
3 prevailing wage for employees at that location who are
4 engaged in construction activities, and (v) secure an
5 appropriate level of general liability insurance to
6 protect against catastrophic failure of the fertilizer
7 plant or any of its constituent systems; in addition,
8 the business must agree to enter into a construction
9 project labor agreement including provisions
10 establishing wages, benefits, and other compensation
11 for employees performing work under the project labor
12 agreement at that location; for the purposes of this
13 Section, "fertilizer plant" means a newly constructed
14 or upgraded plant utilizing gas used in the production
15 of anhydrous ammonia and downstream nitrogen
16 fertilizer products for resale; for the purposes of
17 this Section, "prevailing wage" means the hourly cash
18 wages plus fringe benefits for training and
19 apprenticeship programs approved by the U.S.
20 Department of Labor, Bureau of Apprenticeship and
21 Training, health and welfare, insurance, vacations and
22 pensions paid generally, in the locality in which the
23 work is being performed, to employees engaged in work
24 of a similar character on public works; this paragraph
25 (F) applies only to businesses that submit an
26 application to the Department within 60 days after the

1 effective date of this amendatory Act of the 98th
2 General Assembly; or and

3 (G) the business intends to establish a new
4 qualified hydroponics facility or expand production at
5 an existing qualified hydroponics facility to engage
6 in the practice of hydroponics, provided that the
7 production operations result in the creation of at
8 least 25 full-time-equivalent Illinois jobs; for the
9 purposes of this paragraph:

10 "hydroponics" means a system in which
11 water-soluble nutrients are placed in intimate
12 contact with a plant's root system, being grown in
13 an inert supportive medium, which inert supportive
14 medium itself supplies physical support for the
15 roots and does not add or subtract plant nutrients;

16 "hydroponics production" means the production
17 of normally terrestrial, vascular plants in
18 nutrient rich solutions or in an inert, porous,
19 solid matrix bathed in nutrient rich solutions;
20 and

21 "qualified hydroponics facility" means real
22 property used for an indoor agriculture production
23 operation using hydroponics techniques or
24 practices for growing plants produced by
25 agriculture that are useful for human beings,
26 including, but not limited to, forages, field

1 crops, sod, berries, herbs, fruits, vegetables,
2 flowers, seeds, and nursery stock; "qualified
3 hydroponics facility" does not include an indoor
4 agriculture production operation for growing
5 plants that are illegal under federal law; and

6 (4) no later than 90 days after an application is
7 submitted, the Department shall notify the applicant of the
8 Department's determination of the qualification of the
9 proposed High Impact Business under this Section.

10 (b) Businesses designated as High Impact Businesses
11 pursuant to subdivision (a) (3) (A) of this Section shall qualify
12 for the credits and exemptions described in the following Acts:
13 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
14 subsection (h) of Section 201 of the Illinois Income Tax Act,
15 and Section 1d of the Retailers' Occupation Tax Act; provided
16 that these credits and exemptions described in these Acts shall
17 not be authorized until the minimum investments set forth in
18 subdivision (a) (3) (A) of this Section have been placed in
19 service in qualified properties and, in the case of the
20 exemptions described in the Public Utilities Act and Section 1d
21 of the Retailers' Occupation Tax Act, the minimum full-time
22 equivalent jobs or full-time retained jobs set forth in
23 subdivision (a) (3) (A) of this Section have been created or
24 retained. Businesses designated as High Impact Businesses
25 under this Section shall also qualify for the exemption
26 described in Section 5l of the Retailers' Occupation Tax Act.

1 The credit provided in subsection (h) of Section 201 of the
2 Illinois Income Tax Act shall be applicable to investments in
3 qualified property as set forth in subdivision (a)(3)(A) of
4 this Section.

5 (b-5) Businesses designated as High Impact Businesses
6 pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C),
7 and (a)(3)(D) of this Section shall qualify for the credits and
8 exemptions described in the following Acts: Section 51 of the
9 Retailers' Occupation Tax Act, Section 9-222 and Section
10 9-222.1A of the Public Utilities Act, and subsection (h) of
11 Section 201 of the Illinois Income Tax Act; however, the
12 credits and exemptions authorized under Section 9-222 and
13 Section 9-222.1A of the Public Utilities Act, and subsection
14 (h) of Section 201 of the Illinois Income Tax Act shall not be
15 authorized until the new electric generating facility, the new
16 gasification facility, the new transmission facility, or the
17 new, expanded, or reopened coal mine is operational, except
18 that a new electric generating facility whose primary fuel
19 source is natural gas is eligible only for the exemption under
20 Section 51 of the Retailers' Occupation Tax Act.

21 (b-6) Businesses designated as High Impact Businesses
22 pursuant to subdivision (a)(3)(E) of this Section shall qualify
23 for the exemptions described in Section 51 of the Retailers'
24 Occupation Tax Act; any business so designated as a High Impact
25 Business being, for purposes of this Section, a "Wind Energy
26 Business".

1 (c) High Impact Businesses located in federally designated
2 foreign trade zones or sub-zones are also eligible for
3 additional credits, exemptions and deductions as described in
4 the following Acts: Section 9-221 and Section 9-222.1 of the
5 Public Utilities Act; and subsection (g) of Section 201, and
6 Section 203 of the Illinois Income Tax Act.

7 (d) Except for businesses contemplated under subdivision
8 (a) (3) (E) of this Section, existing Illinois businesses which
9 apply for designation as a High Impact Business must provide
10 the Department with the prospective plan for which 1,500
11 full-time retained jobs would be eliminated in the event that
12 the business is not designated.

13 (e) Except for new wind power facilities contemplated under
14 subdivision (a) (3) (E) of this Section, new proposed facilities
15 which apply for designation as High Impact Business must
16 provide the Department with proof of alternative non-Illinois
17 sites which would receive the proposed investment and job
18 creation in the event that the business is not designated as a
19 High Impact Business.

20 (f) Except for businesses contemplated under subdivision
21 (a) (3) (E) of this Section, in the event that a business is
22 designated a High Impact Business and it is later determined
23 after reasonable notice and an opportunity for a hearing as
24 provided under the Illinois Administrative Procedure Act, that
25 the business would have placed in service in qualified property
26 the investments and created or retained the requisite number of

1 jobs without the benefits of the High Impact Business
2 designation, the Department shall be required to immediately
3 revoke the designation and notify the Director of the
4 Department of Revenue who shall begin proceedings to recover
5 all wrongfully exempted State taxes with interest. The business
6 shall also be ineligible for all State funded Department
7 programs for a period of 10 years.

8 (g) The Department shall revoke a High Impact Business
9 designation if the participating business fails to comply with
10 the terms and conditions of the designation. However, the
11 penalties for new wind power facilities or Wind Energy
12 Businesses for failure to comply with any of the terms or
13 conditions of the Illinois Prevailing Wage Act shall be only
14 those penalties identified in the Illinois Prevailing Wage Act,
15 and the Department shall not revoke a High Impact Business
16 designation as a result of the failure to comply with any of
17 the terms or conditions of the Illinois Prevailing Wage Act in
18 relation to a new wind power facility or a Wind Energy
19 Business.

20 (h) Prior to designating a business, the Department shall
21 provide the members of the General Assembly and Commission on
22 Government Forecasting and Accountability with a report
23 setting forth the terms and conditions of the designation and
24 guarantees that have been received by the Department in
25 relation to the proposed business being designated.

26 (Source: P.A. 97-905, eff. 8-7-12; 98-109, eff. 7-25-13.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.